

FILED 08 AUG 27 12:38 USDC-OR

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

CHARLES ELLEDGE,

Civil No. 08-776-CL

Plaintiff,

v.

R. RAMIREZ, et al.,

ORDER

Defendants.

CLARKE, Magistrate Judge.

There is no constitutional right to counsel in a civil case. United States v. 30.64 Acres of Land, 795 F.2d 796, 801 (9th Cir. 1986). Pursuant to 28 U.S.C. § 1915(d), this court has discretion to request volunteer counsel for indigent plaintiffs in exceptional circumstances.

While this court may request volunteer counsel in exceptional cases, it has no power to make a mandatory appointment. Mallard v. U.S. Dist. Court of Iowa, 490 U.S. 296, 301-08 (1989).

In order to determine whether exceptional circumstances exist, this court evaluates the plaintiff's likelihood of success on the merits and the ability of the plaintiff to articulate his or her claim pro se in light of the complexity of the legal issues involved. Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990); Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Richards v. Harper, 864 F.2d 85, 87 (9th Cir. 1988) (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). However, "[n]either of these factors is dispositive and both must be viewed together before reaching a decision on request of counsel under section 1915(d)." Wilborn, 789 F.2d at 1331; Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991).

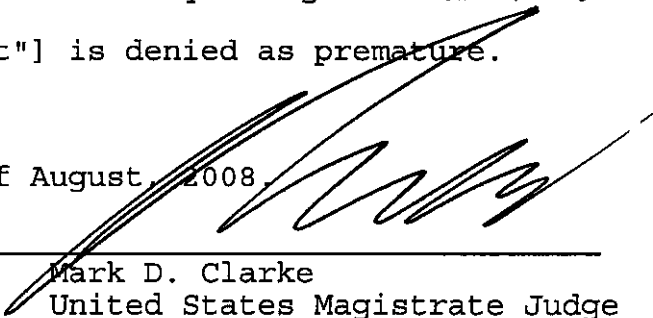
Plaintiff has demonstrated sufficient ability to articulate his claims. The facts and legal issues involved in this case are not of substantial complexity. I find that at this stage of the proceeding, there are no exceptional circumstances that require the appointment of counsel under § 1915(d).

Based on the foregoing, plaintiff's motion for appointment of counsel (#10) is DENIED.

Plaintiff's Motion for Summary Judgment (#11) [titled "Opposition Summary Judgment"] is denied as premature.

IT IS SO ORDERED.

DATED this 27 day of August, 2008.

  
\_\_\_\_\_  
Mark D. Clarke  
United States Magistrate Judge